

SENATE JOINT RESOLUTION NO. 7

INTRODUCED BY J. BRENDEN

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A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA EXPRESSING OPPOSITION TO FEDERAL LEGISLATION THAT WOULD REDEFINE WHICH WATERS ARE SUBJECT TO THE FEDERAL WATER POLLUTION CONTROL ACT.

WHEREAS, federal legislation has been introduced in the past two sessions of Congress, H.R. 2421 in 2007 and S. 787 in 2009, to clarify which waters are subject to the jurisdiction of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.); and

WHEREAS, the proposed federal legislation has sought to clarify jurisdiction by striking the term "navigable waters" and replacing it with "waters of the United States", defined as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing"; and

WHEREAS, striking the term "navigable waters" would potentially expand the federal government's reach beyond what was intended and thereby blur jurisdictional authority to manage and regulate water resources within state and local government jurisdictions; and

WHEREAS, given the ambiguity of the jurisdictional reach in past proposed Congressional legislation, the implementation of this kind of proposal may lead to increased litigation and uncertainty among public and private stakeholders, including homeowners, farmers, water districts, and state and federal agencies, among others.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That the 62nd Legislature adamantly opposes any Congressional legislation that would redefine which waters are subject to the Federal Water Pollution Control Act and urges Congress not to propose, introduce, or enact any legislation to that effect in the future.

(2) That the Secretary of State send copies of this resolution to the Montana Congressional Delegation, the Majority Leader of the United States Senate, and the Speaker of the United States House of Representatives.

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